

ANZALONE LAW OFFICES

By: Patrick J. Doyle, Jr., Esquire
Identification No.: 203542
Kelly M. Ciravolo, Esquire
Identification No.: 200565

Attorneys for: Plaintiff

98 South Franklin Street
Wilkes-Barre, PA 18701
(570) 825-2719

WAYNE SWARTZ and
TRACY SWARTZ, his wife,

Plaintiffs

vs.

SWIFT TRANSPORTATION CO., INC.,

Defendant

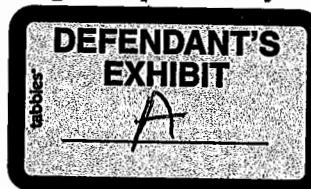
: IN THE COURT OF COMMON PLEAS
: OF LUZERNE COUNTY
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CIVIL ACTION—LAW
JURY TRIAL DEMANDED

NO. _____

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.



YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LEGAL SERVICES OF NORTHEAST PENNA., INC.

410 Bicentennial Building
15 Public Square
Wilkes-Barre, Pa 18701
(570) 825-8567

LACKAWANNA COUNTY LEGAL AID & DEFENDER ASSOC.

Scranton Electric Building
Linden Street, Suite 200
Scranton, PA 18503
(570) 342-0184

NORTH PENN LEGAL SERVICES, INC.

65 E. Elizabeth Avenue
Suite 903
Bethlehem, PA 18018
(570) 317-8757

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CIVIL ACTION—LAW
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NO. _____

COMPLAINT

The Plaintiffs, Wayne Swartz and Tracy Swartz, his wife, by and through their attorneys, Anzalone Law Offices, LLC, hereby complain against the Defendant, Swift Transportation Co., Inc., averring in support thereof as follows:

1. The Plaintiffs, Wayne Swartz and Tracy Swartz, his wife, are adult individuals who reside at 97 Washington Street, Plymouth, Luzerne County, Pennsylvania 18651.

2. Defendant, Swift Transportation Co., Inc., (hereinafter referred to as "Swift Transportation"), is a corporation organized and existing under the laws of the State of Delaware with its corporate headquarters located at 2200 S. 75th Avenue, Phoenix, Arizona 85043.

3. Upon information and belief, the Defendant, Swift Transportation, is one of the largest common carriers in the United States providing, *inter alia*, equipment leasing, transportation and logistics services across the United States with a network of more than 40 full-service terminals.

4. Defendant, Swift Transportation, has numerous national clients, including Walmart, Inc.

5. Defendant, Swift Transportation, employs numerous CDL drivers to operate its fleet, which includes dedicated fleets, dry vans, flatbeds, heavy haul, refrigerated, etc.

6. Defendant, Swift Transportation, regularly conducts business in and throughout Luzerne County, Pennsylvania.

7. Upon information and belief, in or about May of 2019, Defendant, Swift Transportation, provided transportation and logistic services to Walmart, Inc.

8. Specifically, Defendant, Swift Transportation, provided transportation of goods to the Walmart Supercenter #1623 located at 2150 Wilkes-Barre Township Blvd., Wilkes-Barre Township, Luzerne County, Pennsylvania 18702.

9. At all times material hereto, Defendant, Swift Transportation, acted by and through its employees, agents, and servants, including its drivers.

10. At all times material hereto, Defendant, Swift Transportation, was acting by and through its employee, servant and/or agent who was operating a Swift Transportation tractor trailer at the Walmart Supercenter #1623 on May 9, 2019 at approximately 3:00 p.m. (Hereinafter the Defendant's, Swift Transportation's, driver will be referred to as "John Doe.")

11. At all times material hereto, John Doe was an employee, agent or ostensible agent of the Defendant, Swift Transportation.

12. At all times material hereto, John Doe, was acting within the course and scope of his employment for the Defendant, Swift Transportation.

13. On May 9, 2019, the Plaintiff, Wayne Swartz, while in the course and scope of his employment with Walmart, was working in the truck delivery area behind Walmart Supercenter #1623, specifically in unloading area.

14. At approximately 3:00 p.m. that date, the Defendant's, Swift Transportation's, driver, John Doe, drove his tractor trailer into the truck unloading area too fast and hit a dumpster causing trash to be strewn around.

15. John Doe exited the tractor trailer owned by Defendant, Swift Transportation, and began to pick up the trash that had been strewn around because he caused his tractor trailer to strike the dumpster.

16. The Plaintiff, Wayne Swartz, and a co-worker, assisted John Doe with picking up the trash.

17. The Plaintiff, Wayne Swartz, was using a hose to clean up the area where the trash had spilled.

18. The Defendant's, Swift Transportation's, driver, John Doe, had cut his hand while picking up the trash and asked the Plaintiff, Wayne Swartz, if he could use the hose to rinse his hand.

19. At this time, John Doe abruptly grabbed the hose from the Plaintiff's, Wayne Swartz's, hand and yanked on it to pull it closer to him which caused the Plaintiff,

Wayne Swartz, to fall and twist his leg as he stepped away from John Doe, so as not to get blood on himself.

20. Thereafter, the Plaintiff, Wayne Swartz, presented to Concentra Medical Center, with complaints of injury to his right ankle and was diagnosed with a sprain of the tibiofibular ligament of his right ankle, and orders for MRI and X-ray were placed.

21. The Plaintiff, Wayne Swartz, was directed to return in 2-3 days.

22. On May 10, 2019, the Plaintiff, Wayne Swartz, returned to Concentra Medical Center because he was still having significant pain in his right ankle.

23. As a result of the above-described actions of the Defendant's, Swift Transportation's, driver, John Doe, the Plaintiff, Wayne Swartz, sustained the following severe, serious and painful injuries that required medical treatment at various health care facilities including, but not limited to, the following:

- (a) Right ankle inversion sprain;
- (b) Right knee injury; and,
- (c) Right calf injury.

26. The carelessness and negligence of the Defendant's, Swift Transportation's, driver, John Doe, caused the serious and permanent injuries to the Plaintiff, Wayne Swartz.

24. As a result of the aforementioned injuries, the Plaintiff, Wayne Swartz, has obtained medical care and treatment from various care providers for which a recovery is sought.

25. As a result of the aforesaid injuries, the Plaintiff, Wayne Swartz, was rendered sick, sore and disabled and sustained physical and mental pain and great discomfort all of which required medical care and treatment.

26. As a result of the aforesaid injuries, the Plaintiff, Wayne Swartz, suffered and continues to suffer great physical and mental pain, discomfort, inconvenience, and has been informed, believes and avers that his injuries are of a continuing and permanent nature, and that he will continue to suffer in the future and require additional medical care and treatment from time to time.

27. The Plaintiff, Wayne Swartz, has been informed, believes and avers that he may be obliged to spend various sums of money and incur various expenses for treatment of the aforementioned injuries in the future, for which the Plaintiff makes a claim herein.

28. As a result of the injuries sustained in this collision, the Plaintiff, Wayne Swartz, has sustained and will continue to sustain a loss of everyday pleasures and enjoyments of life, for which a claim is hereby made.

29. Additionally, as a result of the aforementioned injuries, the Plaintiff, Wayne Swartz, has suffered and continues to suffer a loss of his earning capacity and power and this loss of income and/or impairment of earning capacity and power for which a claim is hereby made and said loss is alleged to be permanent.

WHEREFORE, the Plaintiffs, Wayne Swartz and Tracy Swartz, his wife, seek judgment in their favor and against the Defendant, Swift Transportation Co., Inc., in an amount in excess of the jurisdictional limit required for compulsory arbitration under the applicable Statutes of the Commonwealth of Pennsylvania and the local Rules of Court.

COUNT I— NEGLIGENCE (VICARIOUS)

WAYNE SWARTZ V. SWIFT TRANSPORTATION CO., INC.

30. The Plaintiffs, Wayne Swartz and Tracy Swartz, his wife, incorporate herein by reference as though the same were set forth at length paragraphs 1 through 29, inclusive, of this Complaint.

31. The careless and negligent conduct of the Defendant, Swift Transportation Co., Inc., vicariously, by and through the actions of its employee, agent, and/or servant, John Doe, which caused the Plaintiff's, Wayne Swartz's, serious injuries, consisted of the following:

(a) In then and there operating his tractor trailer negligently thereby causing it to strike a trash dumpster, strewn trash at the Walmart Supercenter #1623;

(b) In then and there yanking the hose from the Plaintiff, Wayne Swartz, causing the Plaintiff to fall and injure his right leg and ankle;

(c) In then and there creating a fall risk and/or trip hazard by abruptly grabbing the hose from the Plaintiff, Wayne Swartz;

(d) In then and there failing to use due care under the circumstances to avoid creating a fall hazard in the area where the Plaintiff, Wayne Swartz, was working; and,

WHEREFORE, the Plaintiffs, Wayne Swartz and Tracy Swartz, his wife, seek judgment in their favor and against the Defendant, Swift Transportation Co., Inc., in an

amount in excess of the jurisdictional limit required for compulsory arbitration under the applicable Statutes of the Commonwealth of Pennsylvania and the local Rules of Court.

COUNT II – CONSORTIUM

TRACY SWARTZ V. SWIFT TRANSPORTATION CO., INC.

32. The Plaintiffs, Wayne Swartz and Tracy Swartz, his wife, incorporate herein by reference as though the same were set forth at length paragraphs 1 through 31, inclusive, of this Complaint.

33. As a result of the serious injuries sustained by her husband, Plaintiff, Wayne Swartz, Tracy Swartz, his wife, has been denied the care, comfort, society and companionship of her husband, for which a claim for loss of consortium is hereby made.

WHEREFORE, the Plaintiffs, Wayne Swartz and Tracey Swartz, his wife, seek judgment in their favor and against the Defendant, Swift Transportation Co., Inc., in an amount in excess of the jurisdictional limit required for compulsory arbitration under the applicable Statutes of the Commonwealth of Pennsylvania and the local Rules of Court.

Respectfully submitted,

ANZALONE LAW OFFICES




PATRICK J. DOYLE, JR., ESQUIRE

KELLY M. CIRAVOLO, ESQUIRE
Attorneys for Plaintiffs

VERIFICATION

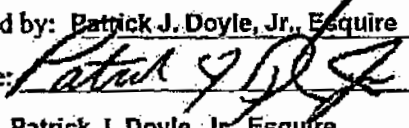
I, Wayne Swartz, Plaintiff herein, certify that the statements contained in the foregoing Complaint are true and correct and are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.


WAYNE SWARTZ

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Patrick J. Doyle, Jr., Esquire

Signature: 

Name: Patrick J. Doyle, Jr., Esquire

Attorney No. (if applicable): 203542

Rev. 12/2017